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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,836	04/08/2004	Ian Miska	CU-3678 WDD	8472

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,836

Applicant(s)

MISKA, IAN

Examiner

Cassandra Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-14 and 29-45 is/are pending in the application.
- 4a) Of the above claim(s) 10, 12, 13, 29, 30, 39 and 41-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 7, 9, 11, 31, 32, 34, 36, 37, 38, 40 and 45 is/are rejected.
- 7) ☒ Claim(s) 3, 5, 33 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group 7 drawn to figures 18-21 in the reply filed on March 28, 2005 is acknowledged. The traversal is on the ground(s) that a restriction was not required in previous examination of substantially similar patent applications, it should not be required now. This is not found persuasive because "general test as to when claims are restricted respectively to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first." See MPEP 806.04(f). However, the examiner will allow the applicant to join Group 1 and Group 2 with the elected Group 7. The claims the applicant indicated as readable of the elected embodiment reflect a combination of Groups 1, 2 and 7

2. New claims 43 and 44 are withdrawn because the Groups 1, 2 or 7 supports both the first side panel and the back section having a first and second removable section.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 10, 12, 13, 29, 30, 39, and 41-44 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 28, 2005.

Claim Rejections - 35 USC § 112

4. Claims 6, 7, 36, and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitations of claims 6 and 7 do not further limit the claimed limitations of claim 1.

Similarly, claims 36 and 37 do not further limit the claimed limitations of claim 31.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 6, 7, 31, 32, 34, 36, 37, 40 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiederseim, U. S. Patent 956,916 in view of Engelhardt, U. S. Patent 4,681,253.

7. With respect to claims 1, 4, 6, 7, 31, 34, 36, and 45, Wiederseim teaches a display comprising a one-piece folder construction having a first side panel (2) and a back section (1), wherein the first panel is foldable over the back section and has slot 8 that engages the tab 9 of back section. The first panel (2) having a viewing section comprising a die-cut window (3). When the back section is engaged with the first side panel the back section has a curvilinear design. Wiederseim does not teach the display having a plastic sheet over the die cut window.

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8. Engelhardt teaches a foldable display having a front or first panel having a window 17 covered with a plastic transparent sheet 18. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the window of the display taught by Wiederseim covered with a plastic sheet as taught by Engelhardt to provide a means to protect the interior of the display.

9. With respect to claims 2 and 32, Wiederseim teaches the back section containing an image. See figure 7.

10. With respect to claims 7 and 37, since the applicant is not positively claiming the three dimensional artwork, the claim is obvious over Wiederseim in view of Engelhardt. (Originally presented) The presentation apparatus of Claim 1 wherein the side panel has a viewing section comprising a die-cut window containing an acetate or plastic sheet for viewing the back section. (Originally presented) The presentation apparatus of Claim 1 wherein the side panel is folded over the back section and engages the back section for display purposes. (Originally presented) The presentation apparatus of Claim 6 wherein the side panel folded over the back section provides for three-dimensional artwork.

11. Claims 9, 11, 38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiederseim in view of Engelhardt as applied to claims 5, 1, 35, and 31, respectively above, and further in view of Murrell, U. S. Patent 4,237,633. Murrell teaches a foldable display having a front panel with a die cut widow 48 cover by sheet 50. Murrell also teaches "serrations 52, 54, 56 respectively define rectangular break away or removable segments 58, 60, 62 which bound or border three sides of opening

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48. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the display taught by Weiderseim and Engelhardt with removable section about the window as taught by Murrell to provide a means to selectively choose the size of the display window.

Allowable Subject Matter

12. Claims 3, 5, 33, and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).



Cassandra Davis
Primary Examiner
Art Unit 3611

CD
June 11, 2005